

## OGC Has Reviewed

SUBJECT: Applicability of Comptroller General Decision  
B-118963

3. It is the opinion of this office that this particular Decision, based as it is upon a specific section of the Classification Act, has a direct application to CIA in view of the fact that this Agency has a stated policy (see Regulation [redacted] to adhere to the provisions of the Act insofar as possible. It is our further opinion, moreover, that if the employee concerned had been from this Agency, the same result would have been reached even though not based on the Classification Act. We draw this opinion from the general proposition that each agency of the Government has a duty to recover money wrongfully or erroneously paid from the public treasury and in the course thereof is not bound or estopped by erroneous payments made by its officers, with or without jurisdiction, or whether made under mistake of fact or law. It is true that in at least one case (see 28 Comp. Gen. 514) the Comptroller General has allowed a Government employee to retain salary resulting from a promotion later discovered to have been erroneous. To the best of our knowledge, however,

STATINTL

Dr. W. B. BROWN

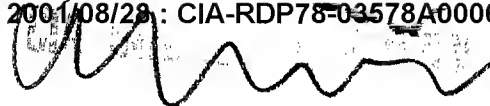
704 1 50 64 24

NAIF BOOM

33 BH.24

8A000600080002-1  
OFFICE OF RECORDS

JOB NO. \_\_\_\_\_ FILE NO. \_\_\_\_\_ DOC. NO. Z NO CHANGE  
NEW CLASS \_\_\_\_\_ REV \_\_\_\_\_ TO B OBT. JUST.  
**DECLASS**  
NEXT REV \_\_\_\_\_ DATE 02/28/80 BY SP-6 JRM/DGC  
NO. PAS 4 CIRC. BY DATE \_\_\_\_\_ CRC CODE 36 ON 32 ORG CLASS C  
REV COORD. AUTH: HQ 702-

  
cases in which the employee has been allowed to retain such payments have been those in which the amount paid was correct for the grade intended and the only error was that in some way the employee was not qualified for the grade to which he was promoted. In cases of error of computation, we see no alternative but to effect a recovery of the overpayment. Such a recovery attempt may be based both upon the Comptroller General's Decision which is the subject of your inquiry and the general proposition cited above.

  
Office of General Counsel

STATINTL

RECEIVED

NOV 1 4 00 PM '24

OFFICE OF GENERAL COUNSEL

-2-

NOV 1 4 00 PM '24

NOV 1 3 33 PM '24

OFFICE OF GENERAL COUNSEL